

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

CHARLENE MORRIS and RAMON SOTO,  
individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

PIM BRANDS, INC.,

Defendant.

Case No.: 1:25-cv-00405

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Hon. Andrea R. Wood

**DEFENDANT’S RESPONSE TO PLAINTIFFS’  
NOTICE OF SUPPLEMENTAL AUTHORITY**

Defendant PIM Brands, Inc. (“PIM”) writes this response to Plaintiffs’ Notice of Supplemental Authority (Doc. 30) to emphasize that the latest *McGarity* ruling is *irrelevant* to the Rule 41(d) Motion immediately before this Court. The parties have discussed the prior *McGarity v. Sun-Maid Growers*, 2024 WL 4370578 (S.D. Cal. Oct. 1, 2024) in a very narrow context: to highlight that its adverse ruling motivated Morris to dismiss the original action in New York district court and refile it here—which Morris has admitted. *See* Doc. 20 at 3. *McGarity*’s relevance has always begun and ended there. To be sure, unlike here, those plaintiffs *amended* their complaint and did not dismiss and refile their action elsewhere. Thus, the *McGarity* court has not contemplated a Rule 41(d) motion or any resultant prejudice to the defendant. Further, the decision in *McGarity* has no bearing on an inescapable fact to which Morris has no response: Morris, *rather than* amending her complaint (as Plaintiffs misstate in their Notice), has inexplicably increased costs by requiring PIM to start from scratch in a new jurisdiction. The latest *McGarity* ruling is unilluminating on these issues. It offers no support to Plaintiffs’ hindsight-biased argument that

Morris's dismissal was in good faith, and PIM has already outlined why Plaintiffs' purported "good faith" is inapposite, in any event. *See* Doc. 23 at 2. If anything, as PIM explained at the hearing for the instant motion, *McGarity* only further highlights that Morris's moving this case to an entirely different jurisdiction will unnecessarily *increase* costs and prejudice PIM, as PIM now has to explain how preemption differs in this Circuit as opposed to the Ninth Circuit or Second Circuit, where this case was originally filed.

Dated: August 6, 2025

Respectfully submitted,

By: /s/ Sean H. Suber

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## CERTIFICATE OF SERVICE

Sean Suber, attorney for Defendant, certifies that on this 6th day of August, 2025, I caused the attached copy of **Defendant PIM Brands, Inc.'s Response to Plaintiffs' Notice of Supplemental Authority** to be served on the following persons by ECF:

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